

REMARKS

Claims 1-2 are allowed. Claim 3 is amended where prong (c) is deleted. No new matter is added.

Claim Rejections - 35 USC § 112

On page 3, section 7 of the Office Action, the Examiner rejected Claims 3-8, 14 and 15 under 35 USC §112, second paragraph as being indefinite. The Examiner set forth two ground for rejection: (a) antecedent basis for "polynucleotide;" and (b) "such as" language for hybridization conditions

Rejection Regarding Antecedent Basis for the Phrase "Polynucleotide"

Specifically, the Examiner states the following:

a) Claims 3-8, 14 and 15 recite the limitation "polynucleotide" in the preamble and in element c) of Claim 3, and Claims 4-8, 14 and 15 recite or incorporate "the polynucleotide of Claim 3". Claim 3 also recites "a nucleotide" in elements a) and b). It is unclear if Claims 4-8, 14 and 15 are only referring to the polynucleotide in element c) of Claim 3 or whether the intended scope is for the nucleic acids of elements a)-c) of Claim 3 as referred to as the "polynucleotide" in the preamble. In other words, which of the two antecedent "polynucleotide" in Claim 3 are being referred to by Claims 4-8, 14 and 15? (emphasis added).

By deleting prong (c) of Claim 3, Applicants believe that the rejection is overcome and Applicants respectfully request the withdrawal of the rejection regarding antecedent basis for the phrase polynucleotide.

Rejection Regarding the Phrase "Such As" for Hybridization Conditions

Specifically, the Examiner states the following:

b) Claims 3-8, 14 and 15 are indefinite for the recitation "hybridizes under stringent conditions" in element c) of Claim 3 because the exact conditions are not defined in the claims or the specification. Applicants point to the specification at [0052] for defining the meaning of the phrase. It is noted that even the specification uses indefinite language, i.e., "such as", to describe a "stringent condition". Applicants are requested to further clarify the meaning of "stringent condition". (emphasis added).

By deleting prong (c) of Claim 3, Applicants believe that the rejection is overcome and Applicants respectfully request withdrawal of the rejection regarding the phrase "such as" for hybridization conditions.

Written Description

On page 4, section 8 of the Office Action, the Examiner rejected Claims 3-8, 14, and 15 as failing to comply with the written description requirement.

Specifically, the Examiner stated the following on page 4:

Claims 3-8, 14 and 15 are interpreted as encompassing a polynucleotide sequence comprising an antisense strand which is able to hybridize to a nucleotide sequence of element a) or b) of Claim 3, and which also encodes a polypeptide having the same biological function or activity as the RL5 protein of SEQ ID NO:2 or residues 29-213 of SEQ ID NO:2.

In addition, the Examiner stated the following on page 5:

However, Applicants have not demonstrated any functional activity for the RL5 protein of SEQ ID NO:2, for example, that the RL5 protein would directly or indirectly transduce a cellular signal in binding to the NKG2 receptor. Further Applicants have not even isolated an antisense polynucleotide sequence with hybridizing capability much less one that also encodes a polypeptide having the same biological properties of RL5. (emphasis added).

By deleting prong (c) of Claim 3, Applicants believe that the rejection is overcome and Applicants respectfully request withdrawal of the written description rejection.

Advisory Action Dated June 18, 2008

In the Advisory Action dated June 18, 2008, the Examiner did not enter the proposed amendment filed on May 21, 2008, stating.

The amendment of Claims 3-8, 14, and 15 in Claim 3 to recite "or the complement thereof" in referring to the nucleotide of element (c) raises new issues for consideration under 112, 1st paragraph. It is not clear how the nucleotide sequence of element (c) which is inherently complementary to the nucleotide of (a) or (b) can further comprise "the complement thereof" because a complementary sequence to an already complementary sequence cannot hybridize to the same substrate i.e., the nucleotide of (a) and (b) (emphases added).

Accordingly, Applicants believe that the Examiner has concern over the phrase "or the complement thereof" in prong (c) of Claim 3 in the previously proposed amendment.

By deleting prong (c) of Claim 3, Applicants believe that the Examiner's concern is overcome and that the subject application is now in condition of allowance.

Application No. 10/527,257
Office Action Mailed March 24, 2008
Amendment dated: July 23, 2008

CONCLUSION

A Petition for One-Month's Extension of Time is being filed concurrently with this Response, therefore, Applicants believe that this response has been timely submitted and all pending claims are in condition for allowance. Applicants believe that no additional fees are necessary at this time. However, in the event that Applicants are incorrect in their assumption, the Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit account No. 23-2415 (Attorney Docket No. 34569-714.831).

Respectfully submitted,

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